

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JESSE HAMMOCK, 86-C-0361

Write the full name of each plaintiff.

-against-

ANTHONY RIZZUTO, FOOD SERVICE ADMINISTRATOR

JOHN PAPAVALIIOU, HEAD COOK

20 CV 4175 (LLS)
20 4175 (LLS)
(Include case number if one has been assigned)

AMENDED
COMPLAINT
(Prisoner)

Do you want a jury trial?
☒ Yes ☐ No

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

☒ Violation of my federal constitutional rights

☒ Other: DOCCS OWN RULES + REGULATIONS

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

<u>JESSE</u>		<u>HAMMOCK</u>
First Name	Middle Initial	Last Name

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

NONE

Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

86-C-0361 NYSID: 02725928J

Current Place of Detention

Sullivan Correctional Facility [DOCCS]

Institutional Address

<u>325 Riverside Drive, P.O. Box 116, Fallsburg N.Y.</u>	<u>12733</u>
County, City	State Zip Code

III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

☐ Pretrial detainee

☐ Civilly committed detainee

☐ Immigration detainee

☒ Convicted and sentenced prisoner

☐ Other: _____

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1: ANTHONY RIZZUTO

First Name	Last Name	Shield #
FOOD SERVICE ADMINISTRATOR (F.S.A.)		
Current Job Title (or other identifying information)		
325 Riverside Drive, P.O. Box 116		
Current Work Address		
Fallsburg, New York 12733		
County, City	State	Zip Code

Defendant 2: JOHN PAPAVALILIOU

First Name	Last Name	Shield #
HEAD COOK		
Current Job Title (or other identifying information)		
325 Riverside Drive, P.O. Box 116		
Current Work Address		
Fallsburg, New York 12733		
County, City	State	Zip Code

Defendant 3:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 4:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

V. STATEMENT OF CLAIM

Place(s) of occurrence: Sullivan Correctional Facility [Kitchen]

Date(s) of occurrence: December 14, 2019

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

SEE ATTACHED

STATEMENT OF FACTS

On December 14, 2019 I was removed from the position as Special Housing Unit (S.H.U.) Cook per the recommendation of the Head Cook (John Papavasiliou) to the Food Service Administrator (F.S.A.) Anthony Rizzuto. The F.S.A. gave the following reasons for my removal: #1. I go on visits, #2. that I participate in the Family Reunion Program (F.R.P.) [both are earned privileges, and no one in this prison system is penalized for participating in the F.R.P.] #3. that I attend my religious services, and #4. that I take my two days off from work.

The "only" times petitioner missed cooking and delivering the food (at or around 4:40 - 4:45PM) to S.H.U., Mental Health Unit (M.H.U.) and the Hospital, is that petitioner was participating in the Family Reunion Program.

There was never "any" complaints as to the lack of performance(s) that would cause a position change.

There was never any "negative" evaluations stating that my performance was a negative, or that my participation is the reasons stated by Mr. Rizzuto "hindered" my abilities to perform my duties.

The above reasons for my removal is stated by Mr. Rizzuto. (See his attached statement). John Papavasiliou complained to Mr. Rizzuto, the (F.S.A.), and had Mr. Rizzuto remove petitioner from said position, in violation of the Employee's Manual § 2.8 which states: Non-discrimination, No employee shall discriminate against or harass any person on the basis of race, creed, color, age, sex, sexual orientation, national origin, marital status, or disability. A Grievance was filed under Log No.SUL-0008-20 by Petitioner, and was denied by the Superintendent W. Keyser on January 7, 2020. An appeal was then submitted to CORC on January 13, 2020 (see attached) and appeal was denied on April 1, 2020. The defendants intentionally discriminated against petitioner because of his religion thus violating the Equal Protection Clause of the Fourteenth Amendment. This petitioner was penalized because of his religious beliefs. This petitioner would like to also point out to the Court that, this petitioner participates in his religious services on his day off from work, and for Mr. Rizzuto to say the he changed my job because petitioner attends religious services shows a contradiction and

further disproves the defendants claims. Also see enclosed affidavits and a complaint filed by this petitioner. Therefore, this petitioner has exhausted all remedies and now file this §1983 action in this Court.

TO: A. Justiniano, Deputy Superintendent for Programs
FR: Jesse Hammock #86C0361 BN-160, N.O.I. Facilitator
DT: May 5, 2020
RE: A deliberate taking of food, and a lack of food for Ramadan participants of the Nation of Islam.

Dear Sir,

Please accept this letter as a formal complaint against the Head Cook, John Papavasiliou.

On Sunday May 3rd 2020 the Nation of Islam aproved cooks, went to prepare the Ramadan meal approved by Albany, when it was discovered that the Head Cook John, had not left out food for the approved menu for the Ramadan meal for the Nation of Islam participatants, and additionally, had even taken away food. The Nation of Islam cooks were left with no salad, bread, juice, dessert, or fruit, in accordance with the Religious menu provided by Albany. And as an insult to injury, this cook took away two (2) pizza pies and the chesse to make the pizza.

This cook displays bias towards Ramadan participants and will do nothing to assist either in their endeavor to have a successful Holy Month of Ramadan. This cook (John Papavasiliou) has upset this community and his actions of this nature is a very serious one and has offended the members of the Nation of Islam and needs to be addressed immediately.

We thank you for your time and consideration in this matter.

Respectfully submitted

J. Hammock #86C0361 N.O.I. Facilitator

Cc: S. Shabazz, Nation of Islam's Chaplain
W. Keyers, Superintendent of Sullivan Correction Facility
Krom, Deputy Superintendent of Administration
Jeff McKoy, Deputy Commissioner for Program Serices

AFFIDAVIT

My name is Thomas Silva, #09A3660, and I make this statement based on the facts that I observed during while working in the Sullivan Correctional Facility's Kitchen.

I heard the Head Cook, [John] talk about Hammock being a member of Nation of Islam and that the religion he [Hammock] participates in is a no-good religion and that all of them need to be tarred and feathered. John has also made comments to Anthony Ruzzio, the F.S.A. that his [Hammock's] religion should be placed on the terrorist watch list.

There were many times that John wanted to engaged me and others in a conversation concerning Hammock's religion, but Hammock has only carried himself like a man, and John never like the fact that he [John] couldn't just say anything to Hammock.

I told John it's wrong to think and act like that just because Hammock won't be your slave.

John had many conversations with the F.S.A. [Anthony] about Hammock and his religion. It was wrong then and wrong now, and because of Hammock being a member of the Nation of Islam, he had Hammock placed in the pot room as punishment.

John has done everything in his power to do nothing for Hammock and the Nation of Islam.

Yours Truly,

Thomas Silva

Cc:

SWORN AFFIDAVIT

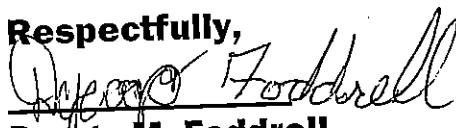
My name is Dyego M. Foddrell, and I write this affidavit based on the truth concerning Jesse Hammock, an inmate that worked as the Special Housing unit Cook before I was given that position.

I recall Officer Loor and the head Cook John offering me that position saying that they were tired of Hammock choosing his "Fake Religion" over his job. I recall Head Cook John making multiple comments about his disdain for the (N.O.I.) Nation of Islam.

The Head Cook John has also made disparaging remarks and inmate Hammock personally, and has campaigned against inmate Hammock & continued employment. At one point lying to the F.S.A. Anthony Rissatto, saying that inmate hammock refused to come to work, when in fact he (Hammock) was on a trailer visit.

Hammock had Thursday and Fridays off and attended his Religious services on Friday. Officer Loor and head Cook John removed Hammock from his position as a Cook and put him in the Pot Room as a punishment for his non-conformation.

Respectfully,


Dyego M. Foddrell

Cc: File

AFFIDAVIT

My name is Virgilio Samo, and I've been a kitchen worker at the Sullivan Corr. Fac. For 10 years and the unjust treatment of Jesse Hammock is enough.

I make this statement of my own free will without the promise of any benefit, nor any threats.

I've witnessed two (2) occasions that Mr. Hammock has been wronged for the color of his skin and for what faith he believes in.

On two different occasions I witnessed, Mr. Hammock being relieved from a Institutional Cook, when he returned from a F.R.P. visit for two days. I heard Mr. John (the Cook) tell the F.S.A. that no nigger that follows Minister Farrakhan is going to cook for me. Mr. Hammock was taken off as a cook and placed in the tray room. This was the first time that I witnessed Mr. John's distaste for a member of the Nation of Islam. Mr. Hammock let it go.

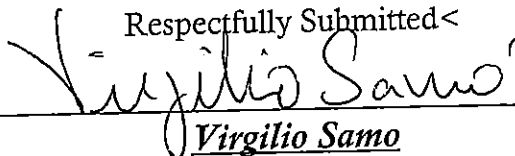
The second time was when Mr. Hammock was made the Special Housing unit cook. The same civilian cook (Mr. John) was asking the F.S.A. why are we paying a nigger for taking his days off? Mr. John also told the F.S.A. that they had to get rid of Hammock and put him back in the tray room where he belongs. I then witnessed Mr. Hammock being removed from the cook's position for attending his religious services on his day off from work (Friday).

Mr. John said (to the F.S.A.) that no inmate should get paid for the work that we do.

Again, I make this statement of my own free will without any promise or threats.

Cc: File

Respectfully Submitted<


Virgilio Samo

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

NONE

VI. RELIEF

State briefly what money damages or other relief you want the court to order.

The petitioner request \$50,000 for damages.

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

July 23, 2020

Dated

Jesse Hammock
Plaintiff's Signature

JESSE

First Name

Middle Initial

HAMMOCK

Last Name

325 Riverside Drive, P.O. Box 116

Prison Address

Fallsburg

County, City

New York

State

12733

Zip Code

Date on which I am delivering this complaint to prison authorities for mailing:

July 27, 2020

10. Pro Se Intake Unit
United States District Court
Southern District of New York
The Daniel Patrick Moynihan
Bldg. Courthouse - 500 Pearl Street
New York, N.Y. 10007-1312

FILED
JUL 29 2020

RECEIVED
JUL 29 2020

PRO SE OFFICE

"Legal Mail"